



## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### Petition for Modification of Application of Existing Mandatory Safety Standards

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

**DATES:** All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by Docket No. MSHA-2022-052 by any of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA-2022-052.
2. *Fax:* 202-693-9441.
3. *Email:* [petitioncomments@dol.gov](mailto:petitioncomments@dol.gov)
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452.

*Attention:* S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401.

Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202-693-9455 to make an appointment, in keeping with the Department of Labor's COVID-19 policy. Special health precautions may be required.

**FOR FURTHER INFORMATION CONTACT:** S. Aromie Noe, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), [Petitionsformodification@dol.gov](mailto:Petitionsformodification@dol.gov) (email), or 202-693-9441 (fax). [These are not toll-free numbers.]

**SUPPLEMENTARY INFORMATION:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

## **I. Background**

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

## **II. Petition for Modification**

Docket Number: M-2022-021-C

Petitioner: M&D Anthracite Coal Company, 71 Hill Road, Hegins, Pennsylvania, 17938.

Mine: Slope #1, MSHA ID No. 36-09976, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.1400, Hoisting equipment; general.

Modification Request: The petitioner requests a modification of 30 CFR 75.1400 to permit operating the gunboat without safety catches or other no less effective devices to transport persons.

The petitioner states that:

(a) No such safety catch or device is available for steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of Anthracite mines.

(b) Anthracite mine slopes range in length from 30 to 4,200 feet and vary in pitch from 12 to 75 degrees.

(c) Since a functional safety catch has not yet been developed, makeshift devices, if installed, would be activated on knuckles and curves, causing a tumbling effect on the conveyance. Such tumbling would increase rather than decrease the hazard to miners.

The petitioner proposes the following alternative method:

(a) Operating the cage or steel gunboat with secondary safety connections that are securely fastened around the gunboat and to the hoisting rope above the main connecting device.

(b) Using strong hoisting ropes -- those with the safety factors that are greater than the 4 to 8 to 1 ratio recommended by the American National Standard for Wire Rope for Mines.

The petitioner asserts that the alternative method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

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Song-ae Aromie Noe,

Director,

Office of Standards, Regulations, and Variances.

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